

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

VICKY RODRÍGUEZ TORRES, et al.

Plaintiffs

v.

Government Development Bank P.R., et al.
Defendants

CIVIL No. 09-01151-JP

TITLE VII AGE & GENDER DISCRIMINATION,
TORTS

TRIAL BY JURY

SCOPE DEFINITION DOCUMENT

REPORT ON COST AND TIME OF PLAINTIFF'S ESI DISCOVERY REQUESTS

On October 5th 2009 the Court Ordered, *inter alia*, that the parties file a report on the cost and time it would take to produce the Electronically Stored Information (**ESI**) discovery requests served by Plaintiffs on co-defendant GDB (**Doc.# 179**). In compliance with, and in the spirit of, said Order and the interest of achieving an expeditious and amicable resolution of the current discovery disputes, Plaintiffs have reduced their pending discovery requests from twenty-two (22), to only eight (8).

Of the above eight (8) discovery requests, the parties have preliminarily agreed that – subject to showings of relevance and saving confidentiality and privilege defenses – four (4) of them are best produced from GDB's Lawson Human Resources software standard reporting and data-extraction tools ("**1. Interrogatory 8**", "**2. Interrogatory 9**", "**3. Interrogatory 17**", and "**4. Interrogatory 24**"). Plaintiffs concede that two (2) other requests are best produced in PDF format ("**6. Request for Production of Documents 15**", and "**8. Supplemented Interrogatory 6**").

The remaining two (2) requests are the only ones which Plaintiffs intent to pursue in their native electronic file format. The parties have agreed that, of the two (2), one (1) would be

produced directly by GDB, after Plaintiffs define through specific identification which subset of documents from the original request it intends to pursue in their native electronic file format (“**7. Supplemental Request 3**”). Consequently, only one (1) request persists as part – and within the scope - of the ESI cost and time report, as set forth in **Doc.# 179**’s Order (“**5. Request for Production of Documents 12**”).

This document serves as the methodology and scientific basis over which the ESI cost and time report will be built by providing those objective and measurable metrics readily known by the parties, and which directly impact the resources and effort which need to be expended to meet the objectives of the sole discovery request

Coined by D.MD Magistrate, in creating:
GUIDELINES FOR ESI DISCOVERY PROTOCOL.

Request for Production of Documents 12”).

2.

The parties have agreed that at this stage of the litigation, and in order to obtain a more speedy and least costly resolution of the case, they will dispense of any of the best known formal and reiterative “search and retrieval” methodologies. The parties have further agreed to dispense of a “staged” discovery process under **Fed. R. Civ. P. 26(b)(2)(B)**, and have opted to

embrace the following assumptions and search and retrieval parameters defined below:

SUMPTIONS TO DEFINE THE SCOPE OF REQUESTED ESI IN NATIVE FILE FORMAT

B will provide an estimated data

rameters defined in “(15)” and “

completed scope document. The ESI specialist selected to author the ESI cost and time

report will submit said report within 24 hours of delivery by GDB of the estimated

dataset size. The ESI cost and time report will not exceed five (5) pages in length, and

will be filed with the Informative Motion as set forth in Order, re: **Doc.# 179**.

(2) The ESI cost and time report will be authored by Mr. Gabriel Rodríguez, of Finanxial IT, a firm specializing in professional services related to the tasks to be outlined below.

1.

A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible.

Courts have said in Ordering use of the Protocol, that parties cannot reach the determination until they have reduced the corpus through the iterative process of a methodology.

3.

(3) Finanxial IT will base the report on performing the underlying tasks utilizing the Concordance search and retrieval utility.

(4) Finanxial IT is fully licensed for the use of Concordance, and its cost estimates are inclusive of all software licensing costs.

~~(5) GDB's ESI defined as within the scope of this document will be made available to Finanxial IT by GDB on one of its file server network drives.~~

~~(6) Finanxial IT will retrieve the above GDB ESI by connecting their own workstation and storage media to GDB's network.~~

express in negative

~~(7) Plaintiff's Counsel will be allowed a quick sampling review to verify the absence of statistical false negatives and false positives from the above file transfer.~~

~~(8) Finanxial IT will provide to both parties a detailed report of the records retrieved above together with any related and ordinary batch processing balancing controls and hand off the storage media to GDB Counsel.~~

(9) GDB's Counsel will perform a privilege and confidentiality review on the records retrieved above.

~~(10) GDB's Counsel will forward to Plaintiff's Counsel a detailed privilege log, and the remainder of the records retrieved for which privilege protection will not be sought, also accompanied by the appropriate batch processing balancing controls.~~

~~(11) Plaintiff's Counsel will be allowed a quick sampling review to verify the absence of statistical false negatives and false positives from the above record segregation.~~

(12) Any disputes arising under the submission of the privilege log and the ESI production made available to Plaintiffs fall outside the scope of this document, and accordingly will not be considered by Finanxial IT in its cost and time estimates.

(13) Neither party is making or conceding assertions as to the relevance of the requested ESI, as defined within this scope definition document. Allegations to such an effect are

FED. R. E. 502(b) & "claw-back" and "quick peek" arrangements.

reserved for the outstanding parts of the Order as set forth in Doc.# 179, and consequently will be taken under consideration by the Court in due time.

~~(14) Based on the assumption as agreed to by the parties in "(5)", above, the following~~

~~definitions and parameters are considered superfluous for purposes of this document, and will not be taken into consideration by Finanxial IT in generating cost and time estimates:~~

- ~~a. Active data, or that which is immediately accessible without restoration or reconstruction;~~
- ~~b. Storage medium where ESI resides;~~
- ~~c. Character of data requested;~~
- ~~d. Media Type; and~~
- ~~e. Records management program under which ESI is maintained.~~

PARAMETERS TO DEFINE THE SCOPE OF REQUESTED ESI IN NATIVE FILE FORMAT

~~(15) Time spans for which cost estimates will be quoted are calendar years 2007, 2008 and 2009, both individually, and all together.~~

(16) Microsoft Outlook mailboxes and calendars against which the search and retrieval parameters will be executed to find the requested character-strings or key-words are defined as those owned, or from which transactions are originated, by the following named individuals, regardless of who is the designated formal custodian:

- a. Javier Ramos Luíña;
- b. Enid López López;
- c. Ángel Pérez Rivera;
- d. Jorge Irizarry Herrans;
- e. Luis Alfaro Martínez;
- f. Marine Comas Torres;

- g.** Naphis Torres Padró;
- h.** Edgardo Rodríguez Nieves;
- i.** Guillermo Cambas Casas;
- j.** Gloryvette Balaguer Estrada;
- k.** Lynette Lugo (second last name unknown);
- l.** Juan Carlos Larriuz Caldera;
- m.** Emilio Torres (second last name unknown);
- n.** Noel Aguiar (second last name unknown);
- o.** Maritza Guridys (second last name unknown);
- p.** José Narvaez (second last name unknown);
- q.** Roberto Rodríguez (second last name unknown);
- r.** Harry de Jesús (second last name unknown);
- s.** Lucy Delgado Serrano;
- t.** José Feijoo Zorrilla;
- u.** Miguel Gutarra Negrón;
- v.** Vivian Mercado (second last name unknown);
- w.** Aurora Rivera (second last name unknown);
- x.** Mildred Ayala (second last name unknown).

(17) Search and retrieval parameters against Microsoft Outlook mailboxes will be defined as the following Boolean-logic operator expressions:

- a.** Within the message subject and body, in either one or both: (“vicky” OR “v. rodriguez” OR “v.rodriguez” OR “vieja” OR “nena” OR “arrugas” OR “quinceañera” OR “peluca” OR “edad” OR “alzheimer” OR “alzheimers” OR “alzheimer's” OR “alzhemer” OR “alzhiemer” OR “alzhiemers” OR “alzhimer” OR

“alzhimers” OR “alzimer” OR “alzimers” OR “demanda” OR “caso” OR “testigo”
OR “testigos” OR “demandante”);

- b.** Within the message addressees, in anyone of: “To:”, “cc:”, or “bc:”: (Miguel Deynes AND Roberto Rodriguez AND José Feijó AND María Padró);
 - c.** Within the message addressees, in anyone of: “To:”, “cc:”, or “bc:”: (María Padró AND José Narvaez AND María Inocencio AND Jorge Cruz AND Luz González AND José Feijó AND Amarilis Fuentes);
 - d.** Within the message addressees, in anyone of: “To:”, “cc:”, or “bc:”: (Roberto Rodriguez AND José Feijó AND Sheila Dávila AND José Narvaez);
 - e.** Within the message addressees, in anyone of: “To:”, “cc:”, or “bc:”: (Roberto Rodriguez AND Sheila Dávila AND José Narvaez AND José Feijó AND Miguel Deynes AND Gladys Pérez AND Amarilis Fuentes AND Nancy Rivera);
 - f.** Within the message addressees, in anyone of: “To:”, “cc:”, or “bc:”: (Roberto Rodriguez AND José Feijó AND Sheila Dávila AND José Narvaez AND Miguel Deynes).
- (18)** Search and retrieval parameters against Microsoft Outlook calendars will be defined as the following:
 - a.** Attendees or invitees include: (Miguel Deynes AND Roberto Rodriguez AND José Feijó AND María Padró);
 - b.** Attendees or invitees include: (María Padró AND José Narvaez AND María Inocencio AND Jorge Cruz AND Luz González AND José Feijó AND Amarilis Fuentes);
 - c.** Attendees or invitees include: (Roberto Rodriguez AND José Feijó AND Sheila Dávila AND José Narvaez);

- d. Attendees or invitees include: (Roberto Rodriguez AND Sheila Dávila AND José Narvaez AND José Feijó AND Miguel Deynes AND Gladys Pérez AND Amarilis Fuentes AND Nancy Rivera);
- e. Attendees or invitees include: (Roberto Rodriguez AND José Feijó AND Sheila Dávila AND José Narvaez AND Miguel Deynes).

Submitted today, October 21st 2009, in San Juan, Puerto Rico.